

CLEARY GOTTLIEB STEEN & HAMILTON LLP

One Liberty Plaza
 New York, NY 10006-1470
 T: +1 212 225 2000
 F: +1 212 225 3999
clearygottlieb.com

WASHINGTON, D.C. • PARIS • BRUSSELS • LONDON • MOSCOW
 FRANKFURT • COLOGNE • ROME • MILAN • HONG KONG
 BEIJING • BUENOS AIRES • SÃO PAULO • ABU DHABI • SEOUL

D: +1 212 225 2490
jblackman@cgsh.com

VICTORI LEWKOW	SANDRA L. FLOW	DAVID H. HERRINGTON
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CARMINE D. BOCCUZZI, JR.	JAMES E. LANGSTON	RESIDENT COUNSEL
JEFFREY D. KARPF	JARED GERBER	LOUISE M. PARENT
KIMBERLY BROWN BLACKLOW	COLIN D. LLOYD	OF COUNSEL
ROBERT J. RAYMOND	COREY M. GOODMAN	
SUNG K. KANG	RISHI ZUTSHI	
LEONARD C. JACOBY	JANE VANLARE	

March 11, 2019

BY ECF

The Honorable Cheryl L. Pollak
 United States Magistrate Judge
 United States District Court, Eastern District of New York
 225 Cadman Plaza East
 Brooklyn, New York 11201

Re: *Freeman v. HSBC Holdings plc*, 14-cv-6601-DLI-CLP (“*Freeman I*”)
Freeman v. HSBC Holdings plc, 18-cv-7359-DLI-CLP (“*Freeman II*”)

Dear Judge Pollak:

We write on behalf of the Defendants¹ (other than Bank Saderat) in *Freeman I* and *Freeman II* in response to Plaintiffs’ March 7, 2019 letter to the Court. (*Freeman I*, Dkt. No. 215; *Freeman II*, Dkt. No. 47.) Plaintiffs’ letter asks the Court (a) to lift its Order in *Freeman I* that “[d]iscovery [be] held in abeyance pending motion practice” in *Freeman I* (Dkt. No. 37) (the “Stay Order”), and (b) to permit Plaintiffs to initiate discovery in *Freeman II*. Defendants respectfully submit that Plaintiffs’ request should be denied.

Plaintiffs’ letter is the third request they have made to lift the discovery stay in *Freeman I*; they previously made the same request in an August 7, 2018 letter to the Court (Dkt. No. 167) and during the November 7, 2018 conference with the Court (Dkt. No. 211). The Stay Order by its terms provides that the discovery stay will remain in place during the pendency of the motion to dismiss in *Freeman I* (Dkt. No. 37), and that motion remains pending. Lifting the stay in

¹ The Defendants on whose behalf this letter is submitted are HSBC Holdings PLC, HSBC Bank PLC, HSBC Bank Middle East Limited, HSBC Bank USA, N.A., Barclays Bank PLC, Standard Chartered Bank, The Royal Bank of Scotland N.V., Credit Suisse AG, and Commerzbank AG.

Freeman I and permitting the initiation of discovery in *Freeman II* are inappropriate and unwarranted for all the reasons set forth in Defendants' August 14, 2018 letter to the Court opposing Plaintiffs' first request to lift the Stay Order. (*Freeman I*, Dkt. No. 168 (copy enclosed for the Court's convenience).) Plaintiffs' letter offers no reason for lifting the discovery stay, and nothing has changed since their last two requests that would warrant doing so.

There have, however, been other recent developments that support holding discovery in abeyance in both cases. In late December 2018, three new cases under the Anti-Terrorism Act ("ATA"), in addition to *Freeman II*, were filed in this District arising out of the same general series of alleged events as in the two *Freeman* cases: *Tavera v. HSBC Bank USA, N.A.*, 18-cv-07312-LDH-SJB; *Stephens v. HSBC Holdings plc*, 18-cv-07439-RJD-CLP; and *Donaldson v. HSBC Holdings plc*, 18-cv-07442-LDH-JO. In each case, the parties appropriately stipulated that the case should be stayed in its entirety—not just with respect to discovery—pending decision on the motion to dismiss in *Freeman I*, and the court in each case "so ordered" those stipulations. (See *Tavera*, Dkt. No. 44 (Judge DeArcy Hall); *Stephens*, Dkt. No. 7 (Judge Dearie); *Donaldson*, Mar. 5, 2019 text order (Magistrate Judge Orenstein).)

In addition, a second *O'Sullivan* ATA case ("O'Sullivan II") was filed in late December 2018 in the Southern District of New York, and was assigned to Judge Swain as related to *O'Sullivan I*, in which defendants' motion to dismiss has been fully briefed since July 2018.² The parties in *O'Sullivan II*, like the parties in *Tavera*, *Stephens*, and *Donaldson*, recently stipulated that the case should be stayed in its entirety pending decision on the motion to dismiss in *O'Sullivan I*, and Magistrate Judge Gorenstein "so ordered" that stipulation. (*O'Sullivan II*, Dkt. No. 9.)

Accordingly, Defendants respectfully request that the Court maintain its Stay Order in *Freeman I* and reject Plaintiffs' request to initiate discovery in *Freeman II*.

Respectfully submitted,

Jonathan I. Blackman

Enclosure

cc: Counsel of Record (by ECF)

² See *O'Sullivan v. Deutsche Bank*, 18-cv-12325-LTS-GWG (filed Dec. 29, 2018); *O'Sullivan v. Deutsche Bank*, 17-cv-8709-LTS-GWG (filed Nov. 9, 2017). In *O'Sullivan I*, Magistrate Judge Gorenstein granted a stay of discovery, finding that defendants "have made a strong showing that they are likely to succeed on their motion to dismiss" (*O'Sullivan I*, Dkt. No. 118 at 14), and Judge Swain overruled plaintiffs' objections to that stay order on August 20, 2018 (*O'Sullivan I*, Dkt. No. 154 at 1).